

## HOUSE BILL NO. 168

INTRODUCED BY A. BECKER

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE MONTANA INSURANCE GUARANTY ASSOCIATION; REMOVING THE MINIMUM DOLLAR AMOUNT FOR A COVERED PROPERTY OR CASUALTY CLAIM; CLARIFYING THE IMMUNITY WITH RESPECT TO THE MONTANA INSURANCE GUARANTY ASSOCIATION; AMENDING SECTIONS 33-10-105 AND 33-10-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 33-10-105, MCA, is amended to read:

**"33-10-105. General powers and duties.** (1) The association:

(a) (i) is obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency or before the policy expiration date if less than 30 days after the determination or before the insured replaces the policy or causes its cancellation if the insured does so within 30 days of the determination;

(ii) is obligated under subsection (1)(a)(i) only for that amount of each covered claim that ~~is in excess of \$100 and is less than~~ does not exceed \$300,000, except that:

(A) the association shall pay an amount not exceeding \$10,000 ~~per~~ for each policy for a covered claim for the return of unearned premium; and

(B) the association shall pay the full amount of any covered claim arising out of a workers' compensation policy; and

(iii) is not obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

(b) is considered the insurer to the extent of its obligation on the covered claims and to that extent has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) shall investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review

1 settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the  
2 extent to which the settlements, releases, and judgments may be properly contested;

3 (d) shall notify persons as the commissioner directs under 33-10-109(2)(a);

4 (e) shall handle claims through its employees or through one or more insurers or other persons  
5 designated as servicing facilities. Designation of a servicing facility is subject to the approval of the  
6 commissioner, but the designation may be declined by a member insurer.

7 (f) shall reimburse each servicing facility for obligations of the association paid by the facility and for  
8 expenses incurred by the facility while handling claims on behalf of the association and shall pay the other  
9 expenses of the association authorized by this part.

10 (2) The association may:

11 (a) employ or retain persons as are necessary to handle claims and perform other duties of the  
12 association;

13 (b) borrow funds necessary to effect the purposes of this part in accord with the plan of operation;

14 (c) sue or be sued;

15 (d) negotiate and become a party to contracts as are necessary to carry out the purpose of this part;

16 (e) perform other acts as are necessary or proper to effectuate the purpose of this part;

17 (f) refund to the member insurers in proportion to the contribution of each member insurer to the  
18 association that amount by which the assets of the association exceed the liabilities; if, at the end of any  
19 calendar year, the board of directors finds that the assets of the association exceed the liabilities of the  
20 association as estimated by the board of directors for the coming year."

21  
22 **Section 2.** Section 33-10-110, MCA, is amended to read:

23 **"33-10-110. Immunity.** There ~~shall be no~~ is not any liability on the part of and ~~no a~~ is not a cause of action of  
24 any nature ~~shall arise~~ may not be brought against any member insurer or its agents or employees, the  
25 association or ~~its insurance producers~~ the association's agents or employees, the board of directors, or the  
26 commissioner or ~~his~~ the commissioner's representatives for any action taken by them in the performance of their  
27 powers and duties under this part."

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29 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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